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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

DISTRICT COUNCIL 16 NORTHERN  
CALIFORNIA HEALTH AND WELFARE  
TRUST FUND, et al.,

Plaintiffs,

v.

JOE HY WANG, individually, and *dba* J W  
CARPET & FLOORING *aka* JOE WANG  
CARPET AND FLOORING,

Defendant.

Case No.: 11-3337 MEJ (LB)

**STIPULATION AND JOINT REQUEST TO  
VACATE PRE-TRIAL AND TRIAL DATES**

The Complaint in this action was filed on July 7, 2011, to recover monies owed by Defendant Joe Hy Wang, *dba* JW Carpet & Flooring *aka* Joe Wang Carpet and Flooring (“Defendant”) to Plaintiffs District Council 16 Northern California Health & Welfare Trust Fund,

1 et al. ("Funds") based upon an audit of Defendants' records conducted on or about August 2009.<sup>1</sup>  
2 Plaintiffs recently discovered that Defendants owe additional monies to the Trust based upon on  
3 audit conducted on or about March 2012.<sup>2</sup> Due to the recent developments, the parties hereby  
4 stipulate to the following with respect to the Case Management Order issued on April 5, 2012, and  
5 jointly request to vacate the trial date. Docket No. 30.

6 A. Deadline to Amend

7 Pursuant to the Case Management Order dated April 5, 2012, Plaintiffs will file a First  
8 Amended Complaint by July 23, 2012, to include claims relating both audits conducted in August  
9 2009 and March 2012.

10 B. Settlement Conference

11 Pursuant to this Court's Order Regarding Settlement Conference dated April 10, 2012, the  
12 parties intend to meet and confer by August 1, 2012, exchange settlement conference statements  
13 by August 8, 2012, and participate in the Settlement Conference on August 21, 2012, with Judge  
14 Beeler. Docket No. 31.

15 C. Close of Discovery

16 In the event the parties do not reach a settlement, the parties will complete discovery by  
17 October 16, 2012, pursuant to the Case Management Order dated April 5, 2012. If additional time  
18 is necessary to complete discovery in light of the fact that a First Amended Complaint will be  
19 filed, the parties will file a subsequent request for additional time with the Court.

20 D. Dispositive Motions

21 In the event the parties do not reach a settlement, the parties shall file, serve, and notice  
22 dispositive motions by November 15, 2012, to be heard on December 20, 2012, pursuant to the  
23 Case Management Order dated April 5, 2012. If additional time is necessary to file dispositive

24 \_\_\_\_\_  
25 <sup>1</sup> The August 2009 audit covered the period from January 1, 2005, through October 31, 2008, and as explained in the  
26 Complaint included an audit of hours worked by Defendant's employee Stephen Hoac's from November 1, 2007,  
27 through July 31, 2009.

28 <sup>2</sup> The March 2012 audit covered the period November 1, 2008, through July 31, 2011. The draft audit report was  
provided to the Defendant on April 2, 2012, and the final audit report was provided to Defendant on June 15, 2012.

1 motions in light of the fact that a First Amended Complaint will be filed, the parties will file a  
 2 subsequent request for additional time with the Court.

3 E. Expert Witnesses, Pre-Trial Conferences and Trial

4 As set forth above, the parties will attempt to settle this matter and if they are unable to  
 5 reach a settlement the parties will attempt to complete discovery and motion work in accordance  
 6 with the Court's currently calendared deadlines. However, additional time may be necessary  
 7 given that the Funds will be filing a First Amended Complaint. As such, the parties respectfully  
 8 request the Court to take the expert witness disclosure and trial paper deadlines off calendar, and  
 9 to vacate the pre-trial conferences and trial date specified in the Case Management Order dated  
 10 April 5, 2012. The parties will notify the Court of the outcome of the Settlement Conference and  
 11 propose alternative pre-trial and trial dates if they do not reach a settlement.

12 Dated: July 10, 2012

SALTZMAN & JOHNSON  
 LAW CORPORATION

13 By: /s/

14 Shaamini A. Babu  
 Attorneys for Plaintiffs

15 Dated: July 10, 2012

16 SIMPSON GARRITY INNES &  
 17 JACUZZI PC

18 By: 

19 Paul Simpson  
 Attorneys for Defendants

20 ORDER

21 Based on the foregoing and good cause appearing, the expert witness disclosure and trial  
 22 paper deadlines are hereby taken off calendar, and the pre-trial conference dates and trial date are  
 23 hereby vacated. The parties shall notify the Court of the outcome of the Settlement Conference  
 24 calendared for August 21, 2012, and shall propose alternative pre-trial and trial dates if the matter  
 does not settle.

25 IT IS SO ORDERED.

26 Date: July 11, 2012

27   
 28 THE HONORABLE MARIA-ELENA JAMES  
 UNITED STATES MAGISTRATE JUDGE